

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TREZ TYRON SMITH,
LORRAINE SMITH, ANDREW SMITH, and
TONIEYA SMITH, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

ANTHONY TYRONE SMITH,

Respondent-Appellant.

UNPUBLISHED

June 13, 2006

No. 265832

Wayne Circuit Court

Family Division

LC No. 87-260927-NA

Before: Kelly, P.J., and Markey and Meter, JJ.

MEMORANDUM.

Respondent appeals by right from the trial court order terminating his parental rights under MCL 712A.19b(3)(b)(i), (g), and (j). We affirm.

Respondent correctly characterizes the issue as one of credibility. If Lorraine's allegations of sexual abuse by respondent are believed, there is no question that petitioner has established sections (b)(i), (g), and (j) and that termination of respondent's parental rights was not precluded by the children's best interests. Lorraine testified that respondent put his penis inside of her 10 to 20 times, that he wore a condom each time, and that he continued after she told him it hurt. She provided details of the abuse and explained that she was scared to tell anyone because respondent told her that they would both get in trouble if she did. Respondent admitted that he was diagnosed with schizophrenia at the age of 17 and that he had not taken any medication or sought any treatment for this condition since 2000. He denied the allegations and explained that Lorraine had previously been sexually abused and had made other allegations of sexual abuse by others at least four years before this allegation.

Based on the above facts and this court's deference to the trial court's special opportunity to judge the credibility of witnesses, we conclude the trial court did not clearly err in finding that

the statutory grounds for termination had been established by clear and convincing evidence and in terminating respondent 's parental rights. MCR 2.613(C); MCR 3.977(J).

We affirm.

/s/ Kirsten Frank Kelly

/s/ Jane E. Markey

/s/ Patrick M. Meter